

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SHERMAN COLEMAN, :
Plaintiff, :
v. : Case No. 2:07-15-KRG-KAP
MICHAEL HERBIK, M.D.; ROBERT :
TRETINIK, R.N.; and PRISON :
HEALTH SERVICES, S.C.I. FAYETTE, :
Defendants :

SHERMAN COLEMAN, :
Plaintiff, :
v. : Case No. 2:07-166-KRG-KAP
MICHAEL HERBIK, M.D.; and :
PRISON HEALTH SERVICES, S.C.I. :
FAYETTE, :
Defendants :

MEMORANDUM ORDER

These matters were referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

On February 12, 2007, the Magistrate Judge filed a Report and Recommendation recommending that the complaint in Coleman v. Herbiik, Case No. 2:07-cv-15-KRG-KAP, be dismissed without prejudice to filing an amended complaint at Coleman v. Herbiik, Case No. 2:07-cv-166-KRG-KAP.

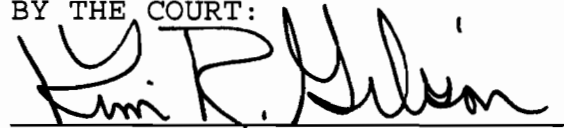
The plaintiff was notified that pursuant to 28 U.S.C. § 636(b)(1), he had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed a motion to amend Coleman v. Herbiik, Case No. 2:07-cv-166-KRG-KAP, docket no. 6, and not objecting to the dismissal of Coleman v. Herbiik, Case No. 2:07-cv-15-KRG-KAP.

After de novo review of the record of these matters together with the Report and Recommendation, the following order is entered:

AND NOW, this 27th day of February, 2007, it is

ORDERED that the complaint at Coleman v. Herbig, Case No. 2:07-cv-15-KRG-KAP is dismissed pursuant to Fed.R.Civ.P. 42(a), without prejudice to plaintiff filing an amended complaint at Coleman v. Herbig, Case No. 2:07-cv-166-KRG-KAP. The Report and Recommendation is adopted as the Opinion of the Court. The Clerk shall mark Coleman v. Herbig, Case No. 2:07-cv-15-KRG-KAP, closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by U.S. Mail to:

Sherman Coleman AJ-2324
S.C.I. Fayette
P.O. Box 9999
LaBelle, PA 15450